

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Miles Frederick, # 22404-171,)	C/A No. 5:13-2647-JMC-KDW
)	
Petitioner,)	
)	
vs.)	Order
)	
Warden, USP Atlanta,)	
)	
Respondent.)	
)	

This is an action seeking habeas corpus relief under 28 U.S.C. § 2241. Petitioner is a prisoner. Therefore, in the event that a limitations issue arises, Petitioner shall have the benefit of the holding in *Houston v. Lack*, 487 U.S. 266 (1988) (prisoner's pleading was filed at the moment of delivery to prison authorities for forwarding to district court). Under Local Civil Rule 73.02(B)(2) of the United States District Court for the District of South Carolina, pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge.

By order dated January 21, 2014, Petitioner was given a specific time frame in which to bring this case into proper form. ECF No. 7. Petitioner has complied with the court's Order, and this case is now in proper form.

PAYMENT OF THE FILING FEE:

Petitioner requests to proceed without prepaying the filing fee by filing an Application to Proceed without Prepayment of Fees and Affidavit (Form AO-240) and other financial documents, which are construed as a Motion for Leave to Proceed *in Forma Pauperis*. Based on a review of Petitioner's Motion for Leave to Proceed *in Forma Pauperis*, it is **granted**.

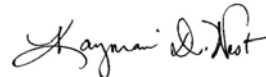
TO THE CLERK OF COURT:

The Clerk of Court is directed to terminate "United States of America" from the list of Respondents on the docket, and to add the Warden of USP Atlanta as the sole Respondent, because a prisoner's custodian is the proper respondent in a habeas corpus action. *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004).

The Clerk of Court shall not serve the § 2241 Petition or this Order on Respondent because, as indicated in the Report and Recommendation filed contemporaneously with this Order, the Petition is subject to transfer to the United States District Court for the Northern District of Georgia for further proceedings.

However, to provide notice of the result of the initial review in this case, the United States Attorney for the District of South Carolina shall receive a copy of this Order and a copy of the § 2241 Petition through the Electronic Case Filing System. The Clerk of Court shall also serve the § 2241 Petition and this Order by registered or certified mail to the Attorney General of the United States in compliance with Rule 4(i) of the Federal Rules of Civil Procedure. Rule 4(i) applies to habeas cases under Rule 81(a)(4)(A) of the Federal Rules of Civil Procedure to the extent that the practice in such proceedings “is not specified in a federal statute, [or] the Rules Governing Section 2254 Cases”

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Kaymani D. West". The signature is fluid and cursive, with the first name being the most prominent.

April 7, 2014
Florence, South Carolina

Kaymani D. West
United States Magistrate Judge